



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2019-0177; FRL-9999-34-Region 8]

Approval and Promulgation of Implementation Plans; Colorado; Regional Haze 5-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of Colorado through the Colorado Department of Public Health and Environment (CDPHE) on May 2, 2016. Colorado's May 2, 2016 SIP revision (Progress Report) addresses requirements of the Clean Air Act (CAA or Act) and the EPA's rules that require each state to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (regional haze plan). The EPA is finalizing approval of Colorado's determination that the State's regional haze plan is adequate to meet these RPGs for the first implementation period through 2018 and requires no substantive revision at this time.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2019-0177. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or

other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6175, gregory.kate@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

States are required to submit a progress report in the form of a SIP revision for the first implementation period that evaluates progress towards the RPGs for each mandatory Class I Federal area¹ (Class I area) within the state and for each Class I area outside the state which may be affected by emissions from within the state (40 CFR 51.308(g)). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state’s existing regional haze plan. The first progress report is due 5 years after submittal of the initial regional haze plan. Colorado submitted the initial regional haze SIP on May 25, 2011 and EPA approved the SIP on December 31, 2012.²

¹ Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). These areas are listed at 40 CFR part 81, subpart D.

² 77 FR 76871 (December 31, 2012), codified at 40 CFR 52.320(c)(108)(i)(C) and (c)(124) .

On May 2, 2016, Colorado submitted its Progress Report which, among other things, detailed the progress made in the first period toward implementation of the long-term strategy outlined in the State's regional haze plan; the visibility improvement measured at the twelve Class I areas within Colorado and a determination of the adequacy of the State's existing regional haze plan.

In a notice of proposed rulemaking (NPRM) published on July 17, 2019 (84 FR 34083), the EPA proposed to approve Colorado's Progress Report. The details of Colorado's submission and the rationale for the EPA's actions are explained in the NPRM. The EPA did not receive any public comments on the NPRM.

II. Final Action

EPA is finalizing without revisions its proposed approval of Colorado's May 2, 2016 Progress Report as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g) and (h).

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct

costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone,

Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 4, 2019.

Gregory Sopkin,
Regional Administrator,
Region 8.

40 CFR part 52 is amended as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G — Colorado

2. Section 52.320(e) is amended in the table by adding the entry “Regional Haze 5 Year Progress Report” after the entry for “State Implementation Plan for Class I Visibility Protection, State of Colorado” under the heading “Visibility” to read as follows:

§52.320 Identification of plan.

* * * *

(e) * * *

Title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*
Local Ordinances/Resolutions				
*	*	*	*	*
Visibility				
*	*	*	*	*
Regional Haze 5 Year Progress Report	11/19/2015	[Insert date 30 days after date of publication in the Federal Register]	[Insert Federal Register citation], [Insert Federal Register date of publication]	
*	*	*	*	*

[FR Doc. 2019-19547 Filed: 9/10/2019 8:45 am; Publication Date: 9/11/2019]